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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/324,249

06/02/1999

ANDREW THOMAS KNOWLES

1999-00

1279

23537

7590

07/27/2006

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RALEIGH, NC 27609

EXAMINER

MOE, AUNG SOE

ART UNIT

PAPER NUMBER

2618

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/324,249

Applicant(s)

KNOWLES, ANDREW THOMAS

Examiner

Aung S. Moe

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36-37, 39, and 51-74 (renumbered claims 38, 50-73) is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 36-37, 39 and 51-74 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 38-73 been renumbered 39-74, because claim 38 has been canceled by the amendment filed on 5/27/2005. In view of this, claim 38 has been renumbered as claim 39, canceled claims 39-49 have been renumbered as 40-50 and claims 50-73 have been renumbered as 51-74.

### ***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 36 and 61 (renumbered as 62) are drawn to digital Photo delivery system having wireless digital camera; a server; server memory; server communications means; server control means for transmitting account configuration data to at least one of the wireless digital camera apparatus, classified in class 348, subclass 207.1.
- II. Claims 37, 38 (renumbered as 39) and 62-66 (renumbered as 63-67) are drawn to a method for archiving and distributing digital images using a digital apparatus with wireless packet data network access and image capture capabilities, classified in class 709, subclass 203.

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- III. Claims 50 and 51 (renumbered as 51-52) are drawn to a server method for processing messages received from one or more remote digital camera device, classified in class 709, subclass 201.
- IV. Claims 52-60, 67-68 and 72 (renumbered as 53-61, 68-69 and 73) drawn to a wireless digital camera apparatus having a digital camera, and processor control means, classified in class 348, subclass 211.2.
- V. Claims 69-70 and 73 (renumbered as 70-71 and 74) are drawn to a method in a data processing system for processing a digital image at a location remotely located from the image captured location and transmitting a message to a remote system, classified in class 358, subclass 1.15.
- VI. Claim 71 (renumbered as 72) is drawn to a method for initializing a wireless rental digital camera, classified in class 348, subclass 207.99.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II, III, IV, V and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are Groups I, II, III, IV, V and VI. For example, the invention Group I involving digital photo delivery system that have respectively separate utility and having different modes of operation, different functions, and different effects from those indicated by the different limitations as outlined in respective grouping (i.e., Groups II – VI) of the different claimed inventions as illustrated above (i.e., noted that Digital camera as recited invention Group IV has

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different designs, mode of operation and effects from any one of Archiving and distributing methods, a server method for processing, a data processing method or initializing a wireless rental digital camera as outline in respective grouping).

4. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

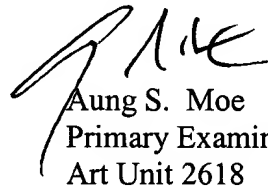
Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aung S. Moe whose telephone number is 571-272-7314. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Aung S. Moe  
Primary Examiner  
Art Unit 2618

A. Moe  
June 19 2006